UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,513	03/09/2001	Sascha Baumeister	DE920000022US1	6112

7590   08/10/2004

GAIL H. ZARICK
IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
P.O. BOX 218
YORKTOWN HEIGHTS, NY   10598

EXAMINER
NEURAUTER, GEORGE C

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/803,513	BAUMEISTER ET AL.
	Examiner	Art Unit
	George C Neurauter, Jr.	2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 March 2001</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☒ All   b)☐ Some * c)☐ None of:

   1.☒ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-24 are pending and have been examined.

Claim Objections

Claim 8 is objected to because of the following informalities:

Claim 8 recites the limitation "Programm". This should be "program".

Claim 11 recites the limitation "...an additional separate Stream Server Controller allocated to each Stream Server". The word "additional" should be deleted in order to avoid antecedent basis issues.

Claim 18 recites the limitations "...wherein the Stream Server, the Stream Server Controller, the Media Player...are installed on different servers..." In view of claims 1, 11, and 17, these limitations appear to the Examiner to be contradictory to the method claimed.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4, 6-7, 10, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "...wherein the address information of the media data to be streamed is provided by an application or program..." It is not clear as to where the "application" or "program" is being executed.

Claim 3 recites the limitation "...wherein the address information additionally includes...the type of the Media Player/Stream Server..." It is not clear as to what "Media Player/Stream Server" means since these elements are separate elements in view of claim 1.

Claim 4 recites the limitation "the application". There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "...the data integrity between of the media stored on the storage media and the datastore is given." The Examiner does not understand this statement and is indefinite.

Claim 10 recites the limitation "the storage media". There is insufficient antecedent basis for this limitation in the claim. In view of claim 1, the Examiner will assume that the "the storage media" is the "datastore".

Claim 20 recites the limitation "...the server system includes a cache..." It is unclear as to which server system includes the cache. In view of claim 10, the Examiner will assume that the server system that contains the "datastore" as claimed in claim 17 contains the cache.

Claim Interpretation

A claim limitation will be interpreted to invoke 35 U.S.C. 112, sixth paragraph if it meets the following 3-prong analysis:

(A) the claim limitations must use the phrase "means for" or "step for";

(B) the "means for" or "step for" must be modified by functional language; and

(C) the phrase "means for" or "step for" must not be modified by sufficient structure, material or acts for achieving the specified function.

With respect to the first prong of this analysis, a claim element that does not include the phrase "means for" or "step for" will not be considered to invoke 35 U.S.C. 112, sixth paragraph. If an applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant must either: (A) amend the claim to include the phrase "means for" or "step for" in accordance with these guidelines; or (B) show that even though the phrase "means for" or "step for" is not used, the claim limitation is written as a function to be performed and does not recite sufficient structure, material, or acts which would preclude application of 35 U.S.C. 112, sixth paragraph. See *Watts v. XL Systems, Inc.*, 232 F.3d 877, 56 USPQ2d 1836 (Fed. Cir. 2000)

The Streamer Server Portal and Stream Server Controller of claims 21-23 recite the phrase "function component for", therefore, these claims do not invoke 35 U.S.C. 112, sixth paragraph since they fail to meet the criteria for this interpretation.

The Applicant has not provided a clear definition for the terms "application", "program", and "address information" recited in claims 1-24 within the specification. Therefore, the Examiner will interpret these elements by their plain meaning as if the terms were interpreted by one of ordinary skill in the art. See MPEP § 2111.01.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed
publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-6, 8-22, and 24 are rejected under 35 U.S.C. 102(a) as being

anticipated by "How to configure and run the icecast server" ("Icecast").

Regarding claim 1, "Icecast" discloses a method for streaming media data by a

streaming system which contains at least a Stream Server (referred to throughout the

reference as "streamer") resided on a server system for reading and sending media

data in parallel to a Media Player ("client"), the Media Player residing on a client system

for receiving and rendering media data in parallel and a Stream Server Portal ("icecast

server") for preparing streaming, whereby media data is stored in a datastore ("source"),

comprising at least the steps of:

receiving address information of the media data to be streamed by the Stream

Server Portal; (page 8, section "server_name" and "port"; page 11, section "Client",

specifically the text "This chapter talks about the different clients you can use to connect

and listen to a icecast stream"; page 17, section "sources")

selecting suitable Stream Server for the Media Player by the Stream Server

Portal; (page 21-22, section "Relaying")

initiating transfer of the media data from the datastore to a server system on

which the Stream Server selected by the Stream Server Portal is installed; (page 12,

section "Source", specifically the text "This section lists some of the ways you have of

sending data to the icecast server.")

generating streaming meta data containing at least address information of the

media data stored in the server system selected by the Stream Server Portal and

address information of the Stream Server; and passing the streaming meta data to the

Media Player. (page 10, section "use_meta_data"; page 17, section "sources")

Claim 24 is also rejected since this claim recites a computer program product

that contains the same limitations as recited in claim 1.

Regarding claim 2, "Icecast" discloses the method of claim 1, wherein the

address information of the media data to be streamed is provided by an application or

program or by the Media Player. (page 8, section "server_name" and "port"; page 11,

section "Client", specifically the text "This chapter talks about the different clients you

can use to connect and listen to a icecast stream"; pages 20-21, section "Directory

servers")

Regarding claim 3, "Icecast" discloses the method of claim 1, wherein the

address information additionally includes information relating at least one of: the type of

the Media Player/Stream Server and security information and client system information.

(page 10, section "use_meta_data"; page 17, section "sources")

Regarding claim 4, "Icecast" discloses the method of claim 1, wherein the Stream

Server Portal selects a suitable Stream Server based on the address information

provided by the application. (page 21-22, section "Relaying", specifically the text "And

when a client requests this stream on your server, then you connect and send him the

stream")

Regarding claim 5, "Icecast" discloses the method of claim 1, wherein the step

for initiating transfer of the media data from the data store to the Stream Server selected

by the Stream Server Portal is accomplished only if the media data to be streamed is

not already stored on a storage media of the Stream Server selected by the Stream

Server Portal. (page 12, section "Source", specifically the text "This section lists some of

the ways you have of sending data to the icecast server.")

Regarding claim 6, "Icecast" discloses the method of claim 5, wherein the step

for initiating transfer of the media data from the data store to the Stream Server selected

by the Stream Server Portal is not accomplished if the media data to be streamed are

stored on the storage media of the Stream Server selected by the Stream Server Portal

and the data integrity between of the media stored on the storage media and the

datastore is given. (page 12, section "Source", specifically the text "This section lists

some of the ways you have of sending data to the icecast server.")

Regarding claim 8, "Icecast" discloses the method of claim 1, wherein the

streaming meta data is passed from the Stream Server via the Stream Server Portal to

the application or Programm. (page 10, section "use_meta_data", specifically the text

"Title streaming means that the [meta data] will be transferred to the icecast server,

which in turn will tell...the clients..."; page 12, section "Source", specifically the text

"This section lists some of the ways you have of sending data to the icecast server.")

Regarding claim 9, "Icecast" discloses the method of claim 1, wherein the

streaming meta data is passed from the Streamer Server to the Media Player directly.

(page 12, section "Client", specifically "Winamp" and "...it is a...client, and can also be

used as a streamer...")

Regarding claim 10, "Icecast" discloses the method of claim 1, wherein the

storage media is a cache ("source"). (page 12-13, section "source")

Regarding claim 11, "Icecast" discloses the method of claim 1, wherein the step

for initiating transfer of the media data is accomplished by an additional separate

Stream Server Controller ("re-encoding streamer") allocated to each Stream Server,

whereby the Stream Server Controller and the Stream Server are installed on the same

server system. (page 12, section "Source")

Regarding claim 12, "Icecast" discloses the method of claim 11, wherein the step

for generating the streaming meta data is accomplished by the separate Stream Server

Controller. (page 10, section "use_meta_data")

Regarding claim 13, "Icecast" discloses the method of claim 11, wherein the step

for generating the streaming meta data is accomplished by the Stream Server. (page

10, section "use_meta_data")

Regarding claim 15, "Icecast" discloses the method of claim 1, wherein the

datastore is installed on a server system different from the Stream Server system. (page

21-22, section "Relaying", specifically "pulling relay")

Regarding claim 16, "Icecast" discloses the method of claim 1, wherein the Media

Player initiates streaming of the media data from the Stream Server by using the

information contained in the streaming meta data. (page 20-21, section "Directory

servers", specifically "You get a list of all servers that are currently displaying

information to this directory server")

Regarding claim 17, "Icecast" discloses a system for streaming media data

comprising:

a Stream Server for reading and sending media data in parallel to a Media

Player; ("streamer")

a Media Player for receiving and rendering the media data in parallel; ("client")

a Stream Server Portal ("icecast server') for receiving at least address

information of media data to be streamed (page 8, section "server_name" and "port";

page 11, section "Client", specifically the text "This chapter talks about the different

clients you can use to connect and listen to a icecast stream"; page 17, section

"sources") and choosing a suitable Stream Server for Media Player to be selected (page

21-22, section "Relaying"); and

a Stream Server Controller ("re-encoding streamer") for initiating transfer of the

media data from a datastore to a server system where the Stream Server is installed

(page 12, section "Source") and for generating a streaming meta data containing at

least address information of the media data stored in the Stream Server system and

address information of the Stream Server selected by the Stream Server Portal (page

10, section "use_meta_data"; page 17, section "sources").

Regarding claim 18, "Icecast" discloses the system of claim 17, wherein the

Stream Server, the Stream Server Controller, the Media Player, the datastore

containing media data and the Stream Server Portal are installed on different servers

and the communication between the servers is accomplished via remote calls. ("page

21-22, section "Relaying", specifically "requests")

Regarding claim 19, "Icecast" discloses the system of claim 17, wherein the

system further includes an application for gathering address information of media data

to be streamed and for passing the address information to the Stream Server Portal. (page 20-21, section "Directory servers", specifically "You get a list of all servers that are currently displaying information to this directory server")

Regarding claim 20, "Icecast" discloses the system of claim 17, wherein the server system includes a cache ("source") for storing media data. (page 12-13, section "source")

Regarding claim 21, "Icecast" discloses a Streamer Server Portal ("icecast server") for use in a method according to claim 1 comprising:

a function component for receiving at least address information for media data to be streamed (page 8, section "server_name" and "port"; page 11, section "Client", specifically the text "This chapter talks about the different clients you can use to connect and listen to a icecast stream"; page 17, section "sources"); and

a function component for choosing a suitable Stream Server for Media Player to be selected. (page 21-22, section "Relaying", specifically the text "And when a client requests this stream on your server, then you connect and send him the stream")

Regarding claim 22, "Icecast" discloses a Stream Server Controller ("re-encoding streamer") for use in a method according to claim 1, comprising:

a function component for initiating transfer of the media data from the datastore to the server system where the Stream Server is installed (page 12, section "Source"); and

a function component for generating streaming meta data and transmitting the

streaming meta data to the Media Player (page 10, section "use_meta_data"; page 17,

section "sources").

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Claims 7 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Icecast" in view of US Patent 4 007 450 A to Haibt et al.

Regarding claim 7, "Icecast" discloses the method of claim 6.

"Icecast" does not disclose wherein any update of the media data of the datastore stored in the storage media of the Stream Server initiates a file transfer of the updated media data from the datastore to the storage media of the Stream Server, however, Haibt does disclose these limitations (column 1, lines 15-23)

Haibt discloses that initiating a file transfer of updated data from a datastore to another storage media allows for rapid access to frequently used data and insuring that the updated data is current across all storage medium (column 1, lines 15-23)

Based on the specific advantages described above in Haibt regarding initiating a file transfer of updated data and wherein both references are directed towards transferring or streaming data between computers using a network, one of ordinary skill in the art would have found it obvious to combine the teachings of these references because one of ordinary skill in the art would have appreciated the specific advantages of the secondary reference and considered each reference to be analogous to one another.

Therefore, it would have been obvious to achieve the limitations as described in the claim.

Regarding claim 23, "Icecast" discloses a Stream Server Controller according to claim 22, further comprising:

a function component for checking whether the media data to be streamed is already stored in the storage media of the Stream Server (page 12, section "Source", specifically the text "This section lists some of the ways you have of sending data to the icecast server."); and

a function component for detecting updates of the media data to be streamed in the datastore and initiating a file transfer of the updated media data from the datastore to the storage media of the Stream Server.

Claim 23 is rejected since the motivations regarding the obviousness of claim 7 also apply to claim 23.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over "Icecast".

Regarding claim 14, "Icecast" discloses the method of claim 1.

"Icecast" does not disclose wherein transfer of the media data is carried out via File Transfer Protocol.

It would have been obvious to one skilled in the art at the time the invention was made to use the File Transfer Protocol because the Applicant has not disclosed that using the limitation undisclosed in "Icecast" provides any sort of an advantage, is used of a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the method of transferring media data using any protocol such as HTTP as described in "Icecast" as recited in the claim because HTTP and FTP are both protocols that enable data to sent using the TCP transport protocol.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 4 432 057 A to Daniell et al;

US Patent 4 627 019 A to Ng;

US Patent 4 881 166 A to Thompson et al;

US Patent 5 216 675 A to Melliar-Smith et al;

US Patent 5 261 069 A to Wilkinson et al;

US Patent 6 097 422 A to Aref et al;

US Patent 6 263 371 B1 to Geagan, III, et al;

US Patent 6 338 044 B1 to Cook et al;

US Patent 6 415 323 B1 to McCanne et al;

US Patent 6 711 622 B1 to Fuller et al;

US Patent 6 735 634 B1 to Geagan, III, et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C Neurauter, Jr. whose telephone number is 703-305-4565. The examiner can normally be reached on Thursday 1-2pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

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Business Center (EBC) at 866-217-9197 (toll-free).

gcn

DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100